



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0061]

RIN 1625-AA00

Safety Zones; Annually Recurring Events in Coast Guard

Southeastern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the special local regulations for the "RI Air National Guard Air Show" and the "Swim Buzzards Bay" events. This amendment would add an additional month to the eligible dates for which the Safety Zone Regulations apply to each of these two events.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Requests for public meetings must be received by the Coast Guard on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2014-0061 using any one of the following

methods:

(1) *Federal e-Rulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail or Delivery:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Edward LeBlanc,

Waterways Management Division at Coast Guard Sector

Southeastern New England, telephone 401-435-2351, e-mail

Edward.G.LeBlanc@uscg.mil. If you have questions on

viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
SLR	Special Local Regulation

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address,

an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number **[USCG-2014-0061]** in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number **[USCG-2014-0061]** in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the

Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

On June 21, 2012 the Coast Guard implemented regulations that removed seven outdated marine events from the CFR and established permanent regulated areas at 33 CFR 165.173 in

conjunction with 24 other recurring marine events in the Sector Southeastern New England Area of Responsibility (AOR). In the Table to section 33 CFR 165.173, the Coast Guard provided the name, type, approximate safety zone dimensions, dates, times, and locations of each event. This NPRM proposes to expand the approximate dates for two events, the Air Show and the Swim.

C. Basis and Purpose

The legal basis for this proposed rule is 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones and special local regulations.

On May 22, 2012, the Coast Guard published a Final Rule in the Federal Register (77 FR 30188) that amended certain special local regulations and established permanent safety zones for numerous recurring marine events within Coast Guard Sector Southeastern New England. For each recurring marine event a range of eligible dates is included in the Table to 33 CFR 165.173.

Due to the changing scheduling of these events, several revisions are necessary to provide a larger window of eligible dates for the sponsors of each event to better

coordinate with other waterway users, major participants, and state and local safety officials.

D. Discussion of Proposed Rule

The Coast Guard proposes to amend the safety zone regulations listed in sections 6.2 (RI Air National Guard Air Show) and 7.12 (Swim Buzzards Bay) of the Table contained in 33 CFR 165.173. This proposed amendment would add an additional month to the eligible dates for which the SLR at 33 CFR 165.173 apply to each of these two events. For the Air Show, the month of May would be added to June and July, so that the regulation listed in section 6.2 would apply to one weekend in May, June, or July, rather than just June or July as is applicable under the current regulation.

For the Swim Buzzards Bay event, the month of June would be added to July and August, so that the regulation listed in section 7.12 would apply to one Saturday or Sunday in June, July, or August, rather than just July or August as is applicable under the current regulation.

These proposed revisions are necessary to provide a larger window of eligible dates for the sponsors of each event to better coordinate with other waterway users, major participants, and state and local safety officials.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation may have some impact on the public, the potential impact will be minimized for the following reasons: The Air Show would still be limited to only a single three-day weekend period (Friday, Saturday, and Sunday) during the month of May, and the Air Show has occurred annually for many years with no negative public comments or concerns regarding impacts to navigation. The Swim would still be limited to only a single Saturday or Sunday during the month of June, and the Swim has occurred annually for many years with few negative

public comments or concerns regarding impacts to navigation, and those comments and concerns have been readily and satisfactorily resolved.

Notifications will be made to the local maritime community through the Local Notice to Mariners well in advance of the Air Show and Swim. No new or additional restrictions will be imposed on vessel traffic.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: owners or operators of vessels intending to transit, fish, or anchor in the area of the events listed in sections 6.2 or 7.12 of the Table to 33 CFR 165.173.

The proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: The Air Show would still be limited to only a single three-day weekend period (Friday, Saturday, and Sunday) during the entire eligible period (May, June, July as proposed herein), and the Air Show has occurred annually for many years with no negative public comments or concerns regarding impacts to navigation. The Swim would still be limited to a single Saturday or Sunday during the entire eligible period (June, July, August as proposed herein), and the Swim has occurred annually for many years with few negative public comments or concerns regarding impacts to navigation, and those comments and concerns have been readily and satisfactorily resolved.

Notifications will be made to the local maritime community through the Local Notice to Mariners well in advance of the Air Show and Swim. No new or additional restrictions will be imposed on vessel traffic.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under FOR FURTHER INFORMATION CONTACT. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have

implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action appears to be one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the modification of a safety zone. This proposed rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated

under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Amend Table § 165.173 as follows:

a. Add a new category entitled "5.0 MAY" below the category "1.0 365 DAY JANUARY-DECEMBER" and above the category "6.0 JUNE";

b. Redesignate item 6.2, "RI National Guard Air Show" as item 5.1, and locate it beneath the category "5.0 MAY";

c. Redesignate item 7.12 "Swim Buzzards Bay" as item 6.2, and locate it below item 6.1 "Oak Bluffs Summer Solstice."

d. Amend the entry for "Date" in newly redesignated item 5.1, "RI Air National Guard Air Show"; and

e. Amend the entry for "Date" in newly redesignated item 6.2 "Swim Buzzards Bay" .

The revisions and additions read as follows:

§ 165.173 Safety Zones for annually recurring marine events held in Coast Guard Southeastern New England Captain of the Port Zone.

* * * * *

Table to § 165.173

1.0 365 DAY JANUARY-DECEMBER	
* * * * *	
5.0 MAY	
5.1 RI National Guard Air Show	<ul style="list-style-type: none">• Event Type: Air Show.
	<ul style="list-style-type: none">• Date: One weekend (Friday, Saturday, and Sunday) in May, June, or July, as announced in the local Notice to

	Mariners.
	<ul style="list-style-type: none"> Time: Approximately 9:00 a.m. to 7:00 p.m.
	<ul style="list-style-type: none"> Location: (1) All waters over the West Passage of Narragansett Bay, in the vicinity of the Quonset State Airport, North Kingston, RI which are within a 4000-yard radius arc extending from position 41°35'44" N, 071°24'14" W (NAD 83); and (2) All waters over the West Passage of Narragansett Bay, in the vicinity of Narragansett Pier, Narragansett, RI, which are within a 2000-yard radius arc extending from position 41°26'17" N, 071°27'02" W (NAD 83) (Friday

	only) .
	<ul style="list-style-type: none"> • Safety Zone Dimension: Approximately 1000 yards long by 1000 yards wide.
6.0 JUNE	
* * * * *	
6.2 Swim Buzzards Bay	<ul style="list-style-type: none"> • Event Type: Swim Event.
	<ul style="list-style-type: none"> • Date: One Saturday or Sunday in June, July, or August, as announced in the local Notice to Mariners.
	<ul style="list-style-type: none"> • Location: The regulated area includes all waters in the vicinity of the Outer New Bedford Harbor, within 500 yards along a centerline with an approximate start point of 41°36'35" N, 070°54'18" W (NAD 83) and an approximate end point of 41°37'26" N,

	070°53'48" W (NAD 83) at Davy's Locker Restaurant in New Bedford, MA, to Fort Phoenix Beach in Fairhaven, MA.
	<ul style="list-style-type: none"> • Safety Zone Dimension: 500 yards on either side of the centerline described above.
* * * * *	

Dated: March 5, 2014.

J. T. Kondratowicz,
Captain, U.S. Coast Guard,
Captain of the Port Southeastern New England.

[FR Doc. 2014-07833 Filed 04/07/2014 at 8:45 am;
Publication Date: 04/08/2014]